

**MINUTES OF THE
POLITICAL SUBDIVISIONS INTERIM COMMITTEE**
Wednesday, May 19, 1999 - 9:00 a.m. - Room 414 State Capitol

Members Present:

Sen. R. Mont Evans, Senate Chair
Rep. Joseph G. Murray, House Chair
Sen. Scott N. Howell
Sen Michael G. Waddoups
Rep. Eli H. Anderson
Rep. Loretta Baca
Rep. DeMar "Bud" Bowman
Rep. Craig W. Buttars
Rep. Greg. J. Curtis
Rep. Marda Dillree
Rep. David L. Gladwell
Rep. Raymond W. Short
Rep. Richard M. Siddoway
Rep. Glenn L. Way

Members Excused:

Sen. Pete Suazo

Members Absent:

Sen. L. Alma "Al" Mansell

Staff Present:

Mr. Joseph Wade,
Research Analyst
Mr. Robert H. Rees,
Associate General Counsel
Ms. Joy L. Miller,
Secretary

Note: A list of others present and a copy of materials distributed in the meeting are on file in the Office of Legislative Research and General Counsel.

1. Call to Order and Committee Business - Rep. Murray called the meeting to order at 9:00 a.m.

Mr. Wade stated the Legislative Management Committee considered the interim committee's request for two subcommittees: Subdivision of Land Subcommittee and Special Districts Recodification Subcommittee. Both subcommittees were approved but were limited to two meetings each.

2. Forms of County Government - Mr. Wade summarized current statutory provisions relating to optional forms of county government. The default form of county government is a three-member commission. The statute provides for four additional options for county government: 1) county executive-council; 2) county executive and chief administrative officer-council; 3) council-county administrative officer; and 4) council-manager. Mr. Wade reviewed the differences between these forms of county government. Cache, Salt Lake, Grand, and Morgan Counties have chosen to have an optional form of county government.

Altering the Number of County Commissioners - Rep. Keele Johnson distributed copies of Article XI, Sec. 4 of the Utah Constitution and Utah Code Section 17-5-101. Section 4 of the constitution states that the Legislature shall by general law prescribe optional forms of county government and shall allow each county to select, subject to referendum in the manner

provided by law, the prescribed optional form which best serves its needs. He said that Grand County, which he represents, changed to a Council--County Administrative Officer form of government six years ago. Since that time questions have been raised by the Utah Association of Counties (UAC) concerning the legality of the change. He said he would like to see legislation developed to deal with the different forms of government to alleviate any chance of court challenges. He also believes the three-member commission is one of the poorer forms of government because there are not enough checks and balances.

Rep. Johnson stated that shortly after the election last November there has been a lot of controversy dealing with Morgan County's vote to change its form of government.

Mr. Gavin Anderson, Deputy District Attorney, Salt Lake County, noted that UAC did participate in litigation regarding Morgan County's form of government at the district court level. The court decided against UAC's position and determined that the plan was not bad enough to invalidate. UAC decided not to pursue an appeal, however, it is concerned with certain aspects of the plan. Those concerns are as follows: 1) no separation of powers; 2) term limits; 3) provision for removal from office midterm by an election proceeding - council members only; and 4) nonpartisan elections. He stated that UAC is not tied to the three-member commission. The association is not opposed to fixing the problem statutorily.

Mr. Anderson said that as Salt Lake County went through the process of changing its form of government, his office was given direction to look through state statute and determine if there were any statutes that needed to be modified. They found that there were some significant problems with all of Title 17 dealing with separation of powers once a county changes its form of government. There is a mindset throughout Title 17, shared by the counties and UAC, that the legislative body does the day to day management of county government. If there is a true separation of powers model, the executive branch should perform the day to day management while the legislative branch enacts county laws and sets funding and tax rates. Mr. Anderson's office has found many statutes that give day to day management prerogatives to the legislative body rather than the elected executive. He suggested that a major recodification of Title 17 be undertaken. Currently Title 17 does not have a chapter that deals with the power of executives. Many of these sections address the powers of counties generally. He suggested considering the language in S.J.R. 5, passed in the 1999 General Session. Mr. Anderson said he and UAC hoped to have a bill for the committee to consider later in the year.

Rep. Buttars pointed out that some of the groundwork that was done prior to Cache County changing its form of government would be a good basis in developing legislation.

MOTION: Rep. Buttars moved to have the issue put on the agenda every other month. The motion passed unanimously. Rep. Curtis was absent during the vote.

3. Special District Recodification - Mr. Rees gave an overview of special districts. Special districts are a governmental structure designed to provide services to a specified area or to be a financing vehicle for providing services. Some special districts are independent governmental entities while others are subunits of the county or municipality that created them. He noted that in the state there are 29 counties, 234 cities, and about 300-400 independent special districts. Special districts are limited in their purpose, are allowed to overlap, and have no constitutional debt limit. Special districts receive 11 percent of property tax revenues. He stated that the 1990 recodification gathered together all special district provisions under Title 17A. However, there were no substantive changes, no uniformity, and some inconsistencies in categorization. In 1997, a subcommittee was approved by the Legislative Management Committee. The approach taken by the subcommittee was a subject matter approach. It considered all of the different provisions dealing with the special districts and determined that there were certain elements that probably should apply to all special districts. The concept was to bring some uniformity to the provisions. S.B. 80, passed in the 1998 General Session, established a new creation procedure that would apply to most independent special districts. He stated the interim committee needs to determine whether or not to move forward with the other items identified by the subcommittee.

Mr. Eckhard Bauer, State Auditor's Office, indicated his office is responsible for budgeting, accounting, and financial reporting of special districts. He suggested that the committee consider leaving Title 17A, Chapter 2, as it is. He also suggested a template be developed which would allow for uniformity and a logical sequence for each district type. Mr. Bauer indicated fiscal management is uniform for all districts. However, special districts are not all well managed when it comes to reporting, accounting, and budgeting.

Ms. Ann Sigler, League of Women Voters, questioned what the training requirements were for those serving on the boards of special districts. Sen. Evans explained that legislation was passed in the 1999 General Session to require the State Auditor's Office, in conjunction with the Association of Special Districts, to conduct yearly training of all special district board members. He noted, however, board member participation in the training is not mandatory.

MOTION: Rep. Dillree moved to proceed with the recodification process and to create the Special Districts Subcommittee approved by the Legislative Management Committee. The motion passed unanimously. Reps. Curtis and Short were absent during the vote.

MOTION: Rep. Siddoway moved to approve the minutes of April 21, 1999. The motion passed unanimously. Reps. Curtis and Short were absent during the vote.

4. Municipal Annexation in Counties of the First Class - Mr. Rees stated whenever an unincorporated area wants to join an adjoining city, it must go through a petition process. In most cases statute requires that process be initiated by property owners in the proposed annexing

area. It is generally recognized that taxes generated from residential areas are not sufficient to cover the costs of services for the area. Therefore, residential areas are seen as being a tax drain for municipalities. Commercial areas are viewed as revenue generating areas.

Sen. Evans stated he introduced S.B. 52, Municipal Annexation in Counties of the First Class, during the last session. Its purpose was to provide an easier mechanism for municipalities in counties of the first class to annex. The bill would have provided that if the local municipality and the county agreed on an annexation, the annexation could proceed without going through the boundary commission. However, the proposed annexation would have to be voted on by the people in the area proposed for annexation. Concerns were raised regarding transfer of personnel, impacts on salaries and seniority, and the county's ability to provide adequate services to unincorporated areas. The bill did not pass.

Mr. Rees explained that Sen. Poulton's Study Item #166, Annexation of Unincorporated Areas, is to study whether to allow an unincorporated area to annex to a city without the possibility of protest or a rejection by the city if the city's tax rate is lower than the unincorporated area. Sen. Poulton and others are planning to meet over the next few months to determine if solutions can be developed.

Sen. Evans noted that there is currently a feasibility study underway in Salt Lake County to determine the impact on local municipalities if other annexations were to take place. He suggested a presentation be given later in the interim by the League of Cities and Towns, UAC, and Salt Lake County to give the results of the feasibility study. Feedback from Sen. Poulton and the group he is working with could also be obtained.

MOTION: Rep. Curtis moved to adjourn the meeting. The motion passed unanimously. Chair Evans adjourned the meeting at 10:45 a.m.